



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 16, 2014

CBCA 3859-TRAV

In the Matter of RAYMOND S. BEDNARCIK JR.

Raymond S. Bednarcik, Jr., California, MD, Claimant.

Bonnie Petree, Travel Department Comptroller, Naval Air Warfare Center Aircraft Division, Patuxent River, MD, appearing for Department of the Navy.

ZISCHKAU, Board Judge.

The claimant, Raymond S. Bednarcik, Jr., seeks supplemental reimbursement for the cost of driving his own privately owned vehicle (POV) from his home to the Norfolk, Virginia airport, an overnight hotel stay in Norfolk, parking at the Norfolk airport, and his return POV trip back home after his trip to Tucson, Arizona. The claimant had originally planned to leave from Baltimore/Washington International (BWI) airport, but due to an approaching winter snowstorm that ended up closing BWI and the other Washington-area airports for his intended travel day on March 3, 2014, the claimant left for Norfolk on March 2. Although Norfolk was about 100 miles farther from his home, the claimant reasonably expected this airport to be out of the snowstorm zone.

We grant the claim because the claimant's travel plan changes were not made for personal reasons but because of an emergency situation wholly attributable to his official business and for the Government's benefit. The claimant exercised prudent care in changing his travel departure plans by first contacting his supervisor and receiving approval to leave on Sunday rather than Monday, and the revised authorization was subsequently approved by the approving official.

Mr. Bednarcik is a civilian employee of the Department of Defense. He had a mission-critical program meeting (he was the program manager) scheduled for the afternoon of March 3, 2014, in Tucson, Arizona. Originally, his travel authorization had him departing BWI airport in Baltimore, Maryland, early on March 3. However, on March 2, realizing that a major snowstorm affecting much of the northeast of the United States was approaching the

Washington region, and predicting (reasonably, in our view) that BWI and the other Washington-area airports would be closed because of the snowstorm and would prevent his planned departure on Monday morning, Mr. Bednarcik contacted his supervisor, who was already in Tucson. He sought permission to depart immediately by driving south to the Norfolk airport before the snowstorm made his departure unsafe, spend the night at a hotel by the airport, and then depart on an early flight out of the Norfolk airport Monday morning. His supervisor approved the change because he needed Mr. Bednarcik at the program meeting on Monday afternoon. The approving official could not be contacted on Sunday, as Mr. Bednarcik did not have a phone number to reach that official at his home. Nevertheless, the approving official later approved the travel authorization change. Mr. Bednarcik called the agency travel office (SATO) on Sunday but was on hold for over an hour and then his call was disconnected. Mr. Bednarcik then contacted directly the air carrier and changed his departing flight from BWI to Norfolk. The total cost differential of the flight change was \$23.50. He left his home and drove his POV to the Norfolk airport and stayed in a hotel on Sunday night. His hotel expense was \$89 plus \$14.96 in hotel taxes. He claims \$226.24 for the round-trip POV expenses between his home and the Norfolk airport, airport parking of \$45, and meals and incidental expenses of \$45.75. The total amount at issue is \$443.95.

The agency denied his request for these additional expenses, arguing that (1) the additional expenses were not authorized by the approving official prior to Mr. Bednarcik incurring them; (2) Mr. Bednarcik was not justified in departing from a non-permanent duty station (PDS) location because neither he nor his supervisor could know with certainty that the BWI airport and other Washington-area airports would be closed on Monday due to the snowstorm; (3) Mr. Bednarcik should have made greater efforts to contact the agency travel office before making the airline change directly with the carrier; (4) Mr. Bednarcik should have rented a car for the travel from his home to Norfolk as this would have been less expensive than driving his POV; and (5) the airport parking expense was unnecessary as he could have parked his vehicle at the hotel and used the free hotel shuttle to get to and from the airport.

The agency's position is not well taken. The Federal Travel Regulation (FTR) at 41 CFR 301-2.1 (2013) (FTR 301-2.1) provides as follows:

Must I have authorization to travel?

Yes, generally you must have written or electronic authorization prior to incurring any travel expense. If it is not practicable or possible to obtain such authorization prior to travel, your agency may approve a specific authorization for reimbursement of travel expenses after travel is completed. However,

written or electronic advance authorization is required for items in § 301-2.5(c), (i), (n), or (o) of this part.

None of the advance authorization items of FTR 301-2.5(c), (i), (n), or (o) is applicable here. Mr. Bednarcik complied with the requirements of FTR 301-2.1. He had a written authorization for his original travel plans. The change to his travel plan which occurred on a Sunday due to a snowstorm did not make it practicable or possible to obtain written or electronic authorization of his travel changes prior to his departure, but he subsequently received written authorization for his travel as changed. We also conclude that Mr. Bednarcik satisfied the FTR requirement that an employee “must exercise the same care in incurring [travel] expenses that a prudent person would exercise if traveling on personal business.” 41 CFR 301.2.3. He determined that the approaching snowstorm would have adverse consequences on his ability to depart from BWI airport (and the other Washington-area airports), so he contacted and received approval from his supervisor to leave on Sunday rather than wait until Monday, and drive his POV to Norfolk airport, spend a night in a hotel, and depart early Monday morning from Norfolk to Tucson. Mr. Bednarcik was not traveling to Norfolk for personal reasons, but because of an emergency situation wholly attributable to his official business and for the Government’s benefit. Thus, his departure from a non-PDS location was justified.

Mr. Bednarcik was unable to contact his authorizing official on that Sunday to get approval for his travel changes, but his authorizing official subsequently provided written approval of his travel changes. Mr. Bednarcik also attempted to contact the SATO travel office on Sunday to change his travel arrangements, but after spending an hour on hold and then being disconnected, he made the airline travel changes directly with the carrier. Although the agency faults Mr. Bednarcik for not attempting to call SATO more than one time, we find entirely reasonable his decision to make the airline ticketing changes directly with the carrier after being on hold for over an hour. *See Brian M. Quirk*, GSBICA 14952-TRAV, 99-2 BCA ¶ 30,487 (claimant was eligible for reimbursement of travel expenses even though they were not approved by the contracted travel office because he attempted to contact the travel office, was placed on hold for forty-five minutes to no avail, and made diligent efforts to find a comparable flight).

We have previously reasoned that “when, in the course of official travel, an employee encounters extraordinary, unexpected circumstances which make prudent spending a night at a hotel at an airport . . . the Government – for whose benefit the employee is making the trip – should reimburse the employee for the cost of the hotel room and other per diem expenses.” *Timothy J. Hurley*, CBCA 2762-TRAV, 12-2 BCA ¶ 35,097. Additionally, severe weather conditions have been considered an “unexpected circumstance” worthy of reimbursement. *Mark E. Byers*, CBCA 2371-TRAV, 11-1 BCA ¶ 34,763. We are satisfied

from the record here that the approaching snowstorm required Mr. Bednarcik to promptly depart his home and travel to Norfolk in order to avoid getting trapped in the snowstorm. It would have been imprudent for him to delay his departure. The agency in its reply papers does not seriously challenge Mr. Bednarcik's decision to depart on Sunday and spend the night in a hotel by the Norfolk airport. Mr. Bednarcik's action was fully supported by the fact that it would not be reasonable or safe for Mr. Bednarcik to attempt to drive what would normally be a three-and-a-half-hour trip from his home in California, Maryland, to the Norfolk airport, by leaving in the middle of the night and during a major snowstorm.

Regarding the choice of his POV over a rental car, Mr. Bednarcik points out that it was not possible for him to obtain a rental car on Sunday near his home and that the cost differential was insignificant when the cost of fuel is added to the rental vehicle cost. We reject the remaining contentions of the agency, including the complaint that he should have used the hotel shuttle rather than incurring a parking fee at the Norfolk airport. Because he had checked out of the hotel on Monday morning, it was proper for him to seek valid parking at the airport rather than at the hotel.

The claim is granted.

JONATHAN D. ZISCHKAU
Board Judge